

June 24, 2009

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TOWN OF NEW WINDSOR

PLANNING BOARD

JUNE 24, 2009

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
HOWARD BROWN
DANIEL GALLAGHER

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HENRY SCHEIBLE

NICOLE JULIAN
PLANNING BOARD SECRETARY

REGULAR MEETING

MR. ARGENIO: I'd like to call to order the June 24,
2009 regular meeting of the Town of New Windsor
Planning Board. Please stand for the Pledge of
Allegiance.

(Whereupon, the Pledge of Allegiance was

recited.)

MR. ARGENIO: It's passed 7:30 and we're missing two members, we do have three which is in fact a quorum. So we're going to get started and Jennifer or Nicole or Jennifer did not hear from Mr. VanLeeuwen or Mr. Schlesinger so I assume they're coming, I hope they come but we do have enough people here to act.

MR. CORDISCO: Just a reminder, tell everybody in the audience understand that any action by the board with just three members requires unanimous vote.

MR. ARGENIO: And we're also meeting to discuss, counsel has prepared final on the two laws that we have discussed a few times and that's the Windmill Law, you guys remember that presentation, and the Work Force Housing Law so I'd like to make a recommendation to the Town Board on those two issues tonight before we adjourn.

REGULAR_ITEMS:

DUNKIN_DONUTS_(09-13)

MR. ARGENIO: So with no further ado, the first item on tonight's agenda is Dunkin Donuts on Route 207. This application proposes demolition of the existing residence on the site and development of the .85 acre site with a retail restaurant. The plan was previously reviewed at the 1 March, 2009, 13 May, 2009 planning board meetings. Sir, what's your name?

MR. INTERRANTE: Ciro Interrante.

MR. ARGENIO: So tell us, Mr. Interrante where you've gone since you were here to visit us last, what changes you've made on the plan.

MR. INTERRANTE: We submitted a package a couple weeks ago, the last drawing is the retention area which was done by a local engineer that should be the last page off the package. We have also revised the curb openings back to 24 feet wide so that we have room for truck traffic and delivery of the donuts and so on, shows up on the drawing SP, traffic patterns, couple weeks before that so we opened the curb up back to 24 feet, last time I was here they talked about a split rail fence along where the retaining wall is on the east side of the property and the request was for a split rail fence with a black chin link fence behind it. So on drawing SP1 on the right-hand side we've done a detail of that fence on the right-hand side. We also put a note just below the detail 4 on SP1 on the right-hand side a note that says retaining wall needs to be designed by a licensed professional engineer and shop drawings need to be submitted with the licensed professional engineer's seal on the drawing and the design to support adequate loads of the parking traffic on top of the retaining wall.

MR. ARGENIO: So I'm clear, you have elected not to take the advice of this board and are you going with an SMU wall or going with something else?

MR. INTERRANTE: No, we've gotten prices for cast concrete, we're looking at several different products but whatever product we propose is going to have the seal of an engineer on it saying that it is capable of withstanding the loads. We also, one of the comments in Mr. Edsall's letter was to show the grease trap which we have shown on the site plan. We have also copied this from the engineer the retention area copied that into my site plan so that it's accurately shown on the site plan. We answered the other comments and we have a letter from Mark Edsall, in the letter from Mark Edsall I think that was pretty much the highlight of what his comments were, correct me if I missed anything.

MR. EDSALL: Couple small items that we can--

MR. ARGENIO: Mark, is there something you'd like to hit while I look at these and we look at these?

MR. EDSALL: As Ciro indicated, the vast majority of the issues are nailed down. I'm just still looking to nail down from a one-way traffic control standpoint the signs at the entrances. I have held to a suggestion that they use the style where you can read the sign as you're--

MR. ARGENIO: Let the record reflect that Mr. Van Leeuwen has joined us. I'm sorry, Mark, go ahead.

MR. EDSALL: No problem. The type that you can read the sign as you're traversing down the road rather than the face of the sign pointing out into the road which pretty much you only see it after you went by or as you're going by.

MR. ARGENIO: You would want the face of the sign to be read as you're traveling in easterly or westerly direction on 207 perpendicular with the line of travel?

MR. EDSALL: Yeah, on the top of page 2 of my comments I just show the style, it's very pertinent, it's a standard DOT sign, its pertinent for a highway location. So we can work on that with Ciro. Lighting and landscaping I still had that open concern on lighting and I think you kind of said if there's a need for more you'll provide it but the time to decide if there's more need is at the planning board so we need to make sure that ultimately the lighting gets resolved. And just defining anchoring the wheel stops since we don't want to have that slip by.

MR. ARGENIO: What are you looking look for Mark, some bars or smooth--

MR. EDSALL: Yeah, probably spike them in with rebar, I didn't see it on the detail.

MR. INTERRANTE: There's holes for the spikes, we didn't show the spikes.

MR. EDSALL: Just call this out because I've seen them left off because people say it's not on the plan, I'm not doing it. Other than that, as I said, the comments have all been addressed.

MR. ARGENIO: Mr. Interrante, any dialogue with the neighbor next door about that crossover?

MR. INTERRANTE: None.

MR. ARGENIO: Certainly not going to affect what we're looking at here but just curious.

MR. INTERRANTE: We first approached after our first meeting he was going to hire an engineer to design this

and he was going to send me the drawing and I was going to copy it into my drawing so it was part of this, never heard from the guy. So I think the decision was made to just proceed with our approval and handle that as a separate item. I'm totally fine with that.

MR. ARGENIO: You're aware you need to have a public hearing on this?

MR. INTERRANTE: I thought the board was going to schedule that.

MR. ARGENIO: That requires a positive action on your behalf, you need to come and see Nicole in the planning board office and she'll put you with the assessor who will give you the addresses of the people who need to--

MR. INTERRANTE: We did all that, we actually provided addressed envelopes and sent them down here couple months ago.

MR. CORDISCO: My understanding Mr. Chairman is that it was pending the re-submission of the plans. So now that the plans have been resubmitted and they're in near final shape I think the preliminary work is done for the public hearing is fine now the notice can be crafted and can go out.

MR. ARGENIO: You did come and see Nicole and get the envelopes?

MR. INTERRANTE: I think the previous lady sent us the addresses, it was before Nicole, we made up the envelopes with the stamps and sent them back down so that was a long time ago. As far as I remember, only like four or five addresses.

MR. ARGENIO: Here's what I'm going to suggest to you, the plans seem to be in a sufficient level of fitness where you should follow up with Nicole and see to it

that this thing gets sent out, just make sure it gets done and we'll get you on the next available agenda. I have a note here from the State of New York I'd like to read it into the minutes for the benefit of the members regarding Dunkin Donuts, Route 207, this department is still reviewing this project at this time. The new revisions were received just last week, we cannot offer our comments at this time. Thank you. If you have any questions, please call me. Sibby Zacharia Carbone. So we don't have anything from DOT so you're certainly not being held up by the planning board in so much as DOT has not responded as of yet. But typically their commentary would be relegated to the width of the openings and the location of the openings and quite frankly based on that site I don't know what else you can do with the openings frankly. There's something I do want to hit though and I'm, I want to address this, let's get some housekeeping things taken care of. We did send out, we have not taken lead agency under SEQRA if somebody sees fit.

MR. INTERRANTE: We did that last time.

MR. EDSALL: Can you doublecheck? I had--

MR. ARGENIO: No determination of significance is what my notes say.

MR. EDSALL: Lead agency was taken on the 13th.

MR. CORDISCO: Determination of significance should wait for the public hearing, that's the negative dec or positive dec.

MR. ARGENIO: Okay, sorry, I stand corrected. We heard from county, I believe, and they said local determination. The SWPPP is not required based on the area of disturbance. The plans address all the soil erosion prevention sediment control issues. There's one thing I do want to hit though for the benefit of

the members I'm going to put this to Danny and Henry and Howard, we talked about the wall in the back at length last time this applicant was here. It's one of those SMU type walls and I use that term generically, I think we all know what a SMU wall is, it's something that we have tried to discourage around town in heights of anything greater than say five or six feet because they do tend to be a little more sensitive on the installation end and on the design end and if they're not done quite right they're subject to failure. I have personally seen the failure and I have shared some of the stories with you guys but that's where we've gone typically. Now, we had a lengthy discussion with the applicant at the last meeting about the use of this SMU style wall or another type of wall, I suggest that a wall that they may want to consider but quite frankly I don't care what it is, I prefer it not be an SMU wall, the applicant's plan still contains a detail for an SMU wall, segmental masonry unit is what SMU stands for, there's no statute that prevents you from using that wall. But I certainly think the board made it very clear at their last visit that it just wasn't, we didn't feel it was a great idea. So you feel it is and that's okay, that's fine.

MR. INTERRANTE: I just want to ask if it's designed and certified by a licensed New York State licensed engineer wouldn't that be acceptable to the board? Basically there's calculating loads and so on.

MR. ARGENIO: We went round and round at length about this last time but we cannot dictate by status what you use. Here's the suggestion I'm going to make to the board members, Danny and Henry and Howard, they really want to use this system and the applicant is correct in that if it's designed correctly and if it's installed correctly it probably is--

MR. VAN LEEUWEN: Lot of ifs.

MR. ARGENIO: Here's what I'm going to propose to you guys, if you guys are okay, Mr. Interrante has already offered that he would have the wall designed by a professional engineer experienced in this craft designing these walls as a matter of--look who's joined us, Mr. Schlesinger. Let the record reflect Mr. Schlesinger has joined us. Neil, we're talking about Dunkin Donuts and I just, the applicant seems to have most everything in order, he still needs to have his public hearing, we have still yet to hear from DOT, we have heard from DOT, we have still have yet to hear from them in the affirmative and we have not heard from them yet and we just started talking before you came in about the wall in the back. If you remember the board strongly suggested against using an SMU wall, the segmental masonry unit, asked the applicant to consider something else, the plan still contains the detail for the SMU wall. We cannot prevent him from using it because there's no statute that says you can't do it. But that said, here's what I was about to suggest to board members before you walked in, Mr. Interrante, yes, you're right, if a guy, if a professional licensed in the State of New York experienced in this craft designs this thing and certifies it we're okay with that, that needs to be submitted to Jennifer at the building department. Mark, do you believe it would be an unreasonable request if I suggest to the members that what I'd like to see happen, what I think we should consider is the applicant retain the services of either M.H. & E. be there to inspect the installation of the wall and do some testing or an outside engineering firm to certify that it's not designed correctly but built correctly.

MR. EDSALL: It's a lot cleaner if our firm is not working for an applicant so I would suggest that you, the preference is the design engineer who's familiar with the design reviews the installation and then he certifies it to the building department or that it be a third party engineer if that engineer isn't available

preference is the design engineer. As importantly you should be concerned about the placement of the soils behind the wall.

MR. ARGENIO: That's all there is with the wall placement of the soil is the wall, it's a gravity wall.

MR. EDSALL: The design engineer might look to have a laboratory monitor the compaction and testing.

MR. INTERRANTE: Can I suggest Advanced Testing?

MR. ARGENIO: Are you guys okay in concept, does it ring true or you guys think we're out on a limb?

MR. SCHLESINGER: Was our concern the actual construction and material or the life of the material?

MR. ARGENIO: It's not really the materials of the wall, Neil, they typically have a fair longevity, it's basically the design and installation. Are you guys okay?

MR. GALLAGHER: Yes.

MR. VAN LEEUWEN: I'd rather see the big blocks.

MR. ARGENIO: I would too but we, I don't know if you were at the meeting we did suggest that to the applicant and he's resisting and he has the right to do these walls.

MR. VAN LEEUWEN: Big blocks, that's, and the material behind the wall is what's important, if it's stone and as long as the water can get away it's okay, otherwise it freezes and moves.

MR. ARGENIO: I don't want to be proprietary and recommend anybody or not but I certainly know those folks as competent folks, I know that they're suitable

to do the materials testing and density monitoring. I don't know that they're a licensed engineer that can certify the global installation of the wall.

MR. INTERRANTE: Well, the way I want to approach this is have a licensed engineer design the wall and certify shop drawings with his seal.

MR. ARGENIO: Send them to the town.

MR. INTERRANTE: Yeah, sent to the building department before we actually build it and everyone's okay then as we build it we would have Advanced Testing do the testing of the density of the compaction of the materials.

MR. ARGENIO: That's not what I'm talking about, I'm talking about two different things here. What we're asking for is two things, one an engineer, a licensed engineer to certify the installation of the wall that the appropriate length geogrid was used, the appropriate type, the material was, the fill material was installed in the appropriate fashion and if that involves Advanced Testing taking some compaction tests that's fine and Advanced Testing that he may offer the services of being able to do the global certification, I don't know that, I know they're a capable soils lab.

MR. INTERRANTE: Can the engineer that certifies the installation be the same engineer that designed it?

MR. EDSALL: That's the preference cause no one knows better the design of the wall than the guy who designed it.

MR. ARGENIO: Mr. Interrante, the only issue with that is and I'll look at you, you seemed to be involved.

MR. INTERRANTE: Project manager.

MR. ARGENIO: Typically it's the guys who design the SMU walls are in Minnesota, they're typically not in this geographical area and you typically need a local engineer to look at the plans and say yea, he did it right or no, he didn't do it right and that's it. I mean, I'm okay with it, there's no ulterior motive, there's no agenda here, these walls there's too much gray area with these walls.

MR. VAN LEEUWEN: Biggest thing is behind the walls, what's in the back.

MR. INTERRANTE: We can agree to do that.

MR. ARGENIO: So we're looking for a licensed engineer to certify to do the design and then somebody to certify that it was installed per the design.

MR. WEYGANT: Basically, have Advanced there and the engineer both.

MR. ARGENIO: Would you stand up please and give your name to the stenographer?

MR. WEYGANT: My name is Mike Weygant, I work doing Dunkin Donuts, I'm the project manager. So basically what you're asking have both of these people present at both companies working on this wall come up and check it, whatever the requirement is.

MR. ARGENIO: The guy who designed it can be there or not but somebody needs to say when it's done, yes, it was built per his plans.

MR. WEYGANT: Personally, I'd like to have the guy there watching this thing every day or whatever to make sure he can sign off on it, say yes, it was correct.

MR. ARGENIO: That's fine, if the designer is the guy who comes and does that certification that's fine, a

licensed professional and there should be some soils testing.

MR. VAN LEEUWEN: I think it's cheaper if you put the big blocks in.

MR. INTERRANTE: I'm taking notes so what I have is number 1 it's got to be designed and certified by a New York State licensed engineer. Number 2, the construction has to be inspected and certified by a New York State licensed engineer and number 3, if it requires Advanced Testing to do tests on the compaction they need to be there also.

MR. EDSALL: Generic testing lab, not necessarily but that all has your notes for the wall.

MR. ARGENIO: And obviously Mark's people, they do site inspections periodically.

MR. WEYGANT: What we're going to do at that point weigh out both weigh out the wall that you're saying that you prefer, see what the costs are and if they're like right there then obviously we're going to use the wall that you want us to use.

MR. ARGENIO: I have to tell you sir I'm not going to go into my whole diatribe about it because I have been through it a dozen times, the wall that you want to do it's fine, problem is that there's just and I've built these, I'm in the construction business, big ones, there's too much room for error and sloppy construction, I've seen people do the grid, install it 90 degrees to where of the direction it should go because of the direction it pulls. Whatever you want to do, we're okay with the big block wall, we suggested that last time. Anybody take exception to what I've said?

MR. GALLAGHER: No.

MR. VAN LEEUWEN: Not me.

MR. ARGENIO: Do you have a flag pole on this site?

MR. INTERRANTE: Yes, we do. Question for Mark, can you off the top of your head know a number for what you're looking for for the lighting?

MR. EDSALL: In foot candles?

MR. INTERRANTE: Yes.

MR. EDSALL: Generally we like to see no less than a half foot candle anyplace in the parking lot and we'd like to see it around one foot candle in most traffic areas as a minimal meaning pedestrian traffic but the key thing here is also to illuminate the entrances or at least the entrance preferably the exit as well so the signs are illuminated and when people want to pull in there's lighting delineating the curb cut and so on. You may have a Central Hudson owned luminare on one of the poles, I don't know.

MR. INTERRANTE: There's one down the street and there's one up the street and there's a pole right across the street, maybe we can get Central Hudson.

MR. WEYGANT: Is there a maximum luminare?

MR. EDSALL: Foot candles?

MR. WEYGANT: Yes.

MR. EDSALL: I hesitate to say a maximum because normally there's a hot spot under the fixture.

MR. ARGENIO: 8.29.

MR. EDSALL: Which is not excessive.

MR. INTERRANTE: We'll talk to Central Hudson but you know what I think we'd rather put a little bit more lighting in the front, make sure we have more than one foot candle and we've covered it.

MR. ARGENIO: I'd like to make one other suggestion if I may, a comment and a suggestion on that wall when they or on the fence when they install the fence on the wall you need to make sure that the wall designer knows that you're going to be piercing that geogrid with your posts for your fence, 2, I don't believe it's not my opinion is that the horizontal members of your fence quote unquote--Mark, the fence is shown as three foot high, does that meet code?

MR. EDSALL: I don't know that there is, we've seen high and low for a, there's no--

MS. GALLAGHER: It's your determination.

MR. EDSALL: It's a safety issue and we have generically when you get walls above 4 foot and there's a potential for somebody to take a tumble we want to have some type of barrier there, is there something in the New York State Building Code that, we don't know that there is such a thing so is 40 inches better than 36, probably.

MR. ARGENIO: Sixty inches is better.

MR. EDSALL: Sixty will look like hell.

MR. ARGENIO: I understand, here's my suggestion, Mr. Interrante, and I think you should, you need to do this, the horizontal members on that rail or that I'm going to call it a guardrail or a small fence they're 2 x 12s, I think you need to do a little bit better than that.

MR. INTERRANTE: Three by twelve.

MR. ARGENIO: I'm saying this is not enough because it's going to warp and it's going to look like you know what inside of 36 months.

MR. INTERRANTE: I know the code does require 200 pound resistance on decks, for example, deck railings three feet off the ground.

MR. EDSALL: Yeah, but separate from a building we have not, although it's good practice and we have adopted the need, I don't know that in the State Building Code there is a reference to just that landscape retaining walls that you have to provide it. But from a liability standpoint, I'm sure they're happy to have it.

MR. INTERRANTE: Take a look at that, maybe something on the posts.

MR. ARGENIO: Maybe you can make that horizontal member out of oak, rough hewn oak maybe that would help but I can tell you a pressure treated 2 x 12 is going to look like hell inside of a couple years, it's going to be twisted within six months.

MR. INTERRANTE: I call for a 3 x 12 there normally but--

MR. ARGENIO: As I said, maybe close the spacing up, use the 3 x 12, do it in oak possibly, I don't know but not a 2 x 12.

MR. INTERRANTE: Okay.

MR. ARGENIO: What else can we do for you this evening?

MR. INTERRANTE: Public hearing, I want to get clear we don't need, the board has taken lead agency position,

we don't need a determination to schedule the public hearing, right?

MR. CORDISCO: Correct.

MR. INTERRANTE: I just need to coordinate that with Nicole, make sure she has the envelopes.

MR. CORDISCO: The board determined that a public hearing is required and authorized the scheduling of a public hearing, you need to work with Nicole to make sure she has everything she needs to get notices out both in terms of the mailings and publication. There's also some changes to the plans if you're going to be making changes to the plans my suggestion is that you provide an extra set prior to the public hearing so anyone who's interested can review the most latest version of the plan.

MR. INTERRANTE: How many sets do you want me to send down after the next round of revisions, 10, 12?

MR. ARGENIO: What's the number, Jen, do you know?

MS. GALLAGHER: Ten.

MR. ARGENIO: Mr. Interrante, make sure you include the horizontals on the rail there and put the note that we talked about about the inspection on the, along with the retailing wall note.

MR. EDSALL: Relative to the meeting for the public hearing, just to let you know there's only one meeting in July, July 15, I would suspect that if you get ahold of Nicole quickly you might be able to get that worked out.

MS. GALLAGHER: I have a check here so it was never, no envelopes or mailings were ever done so she'll go ahead.

MR. INTERRANTE: What's the date on the check?

MS. GALLAGHER: March, but you weren't even set up for a public hearing.

MR. ARGENIO: Your plans were not in a state of fitness.

MR. EDSALL: You'll go ahead with the assessor's office.

MS. GALLAGHER: That's correct, we'll send this to the assessor's office, we'll get the labels going and then she'll call you when they're ready.

MR. EDSALL: When you talk to her just request to be on for public hearing on July 15 so that you don't lose honestly another month.

MR. INTERRANTE: Okay.

MR. SCHLESINGER: Jerry, we had asked for the striping on the drive-thru lane.

MR. ARGENIO: Yes, Mr. Interrante, Neil has a comment. Did you check the striping plan, Dan?

MR. GALLAGHER: Yes, I believe it's on page erosion sediment plans.

MR. INTERRANTE: What are you looking for?

MR. ARGENIO: Neil made a comment about the striping, oh, he put it in about the arrows for the drive-thru and you put them in, that's great.

MR. INTERRANTE: On the left side of SP1.

MR. ARGENIO: Okay, anybody have anything else? Danny?

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MR. GALLAGHER: No.

MR. ARGENIO: Thank you, Mr. Interrante for coming in.
I appreciate your cooperation.

MR. INTERRANTE: You're welcome. Thank you.

ED_BIAGINI_SUBDIVISION_(08-04)

MR. ARGENIO: The next item is Ed Biagini subdivision.

MS. GALLAGHER: Mr. Chairman, I talked to the applicant and he would like to withdraw for tonight, he forgot that he needed a public hearing so he's going to try to be on for a public hearing for the July meeting.

MR. ARGENIO: Okay, that's reasonable. So he did give us feedback then, that's a good thing.

MS. GALLAGHER: Yes, he did.

JASON_BABCOCK_SUBDIVISION_(09-15)

MR. ARGENIO: Next is Jason Babcock subdivision on Station Road. I have a little bit of knowledge about this but certainly the other members should hear about this.

MR. EDSALL: Mr. Chairman, probably before the applicant starts a presentation we should just so it's noted so there's no confusion when someone happens to read the April 29 meeting minutes and they see that this application received conditional subdivision approval they wonder why in God's name did they come back. The driving force of them coming back was re-evaluation of the access point for the single new lot being created being either as part of the Babcock Lane existing lane that's very similar to a driveway, it was a pre-existing private road effectively versus putting in a single.

MR. ARGENIO: They don't want to be on the private country lane, they want to have access off Station Road.

MR. EDSALL: They do. We worked out an arrangement with John, he'll put into the record as far as a note obliging themselves if there's any further upgrade to Babcock Lane or any further subdivision that they would then relocate the driveway from Station onto the private road but for now, they just want to have a driveway to Station Road. The highway superintendent and I went over it and he had no issue with it so I will leave it now as that explanation as to why they're back.

Mr. Jonathan Cella appeared before the board for this proposal.

MR. ARGENIO: What can you add to this?

MR. CELLA: Well, as Mark stated, at the last meeting we decided that you'd approve it if we tied directly into Babcock Lane. But in speaking to the applicant and Mark after the meeting basically Babcock Lane is a common driveway and it's not up to private road specifications and by adding the additional house we would have had to bring Babcock Lane up to private road specifications and this was a financial burden for the applicant. So we'll put the driveway onto Station Road and we added notes to the plan as Mark stated also that if Babcock Lane is ever turned into a private road or town road we'll relocate the driveway. And then remove the existing driveway to Station Road and it will be stabilized.

MR. ARGENIO: I want to read this comment from Mark. The applicant has depicted a driveway access directly to Station Road, it has by map note committed to the requirement that the driveway be relocated and connected to Babcock Lane. If such road is upgraded I believe this is a reasonable proposal given the minor nature of this application. The highway superintendent advised me verbally that he has no problem with the access as proposed. So unless Mark or Anthony says it's okay, I don't believe Mark to be a liar.

MR. EDSALL: I do my best not to.

MR. ARGENIO: Applicant is reminded that the new lot or residence must be assigned a 911 address number, please coordinate with the 911 administrator for the Town of New Windsor. Go ahead, Mr. Schlesinger, do you know where this is?

MR. SCHLESINGER: I have a slight idea where it is. I'm a little confused what you're here for tonight is requesting that your driveway be directly onto Station Road, is that right?

MR. CELLA: That's right.

MR. SCHLESINGER: Over, done with, period?

MR. CELLA: Period.

MR. SCHLESINGER: Doesn't matter what happens to the driveway next door whether it's upgraded.

MR. CELLA: If in the future when it's upgraded we have to update.

MR. SCHLESINGER: Who said so?

MR. CORDISCO: It would be a condition of the approval.

MR. ARGENIO: Neil, the idea is to keep less accesses on Station Road, that's the whole thing.

MR. SCHLESINGER: But I--okay.

MR. VAN LEEUWEN: I have no problem with this at all.

MR. SCHLESINGER: Something's not clear to me on this but--

MR. ARGENIO: Ask the question.

MR. SCHLESINGER: I think that what you're, I think that what you're requesting is the driveway be put on Station Road, I don't know why it's conditional, if the other driveway is upgraded to private road specs or becomes a public road whatever it is can he get approval, can he get approval that the driveway go onto Station Road period, over and done?

MR. EDSALL: Can he?

MR. SCHLESINGER: Yes.

MR. EDSALL: You have that ability and the highway

superintendent has that ability.

MR. SCHLESINGER: He said he sees no problem with the driveway going onto Station Road the highway superintendent?

MR. EDSALL: His preference is always to limit curb cuts and tie it into other roads.

MR. SCHLESINGER: I understand that.

MR. ARGENIO: Neil, it's my suspicion that and Mark can confirm this that Anthony, Highway Superintendent Fayo, said his response was yeah, you have appropriate sight distance, you can go to Station Road but in keeping with the growth of the town and what we have been trying to achieve we want to try and consolidate access onto our roadways. At some point in time if Babcock Lane is improved can you hook back in that cause we don't need a whole bunch of driveways coming out onto Station Road.

MR. EDSALL: And my belief that it could happen, that that road is upgraded is not based on just wild conjecture. The owner of the parent parcel has been at a workshop and has discussed how long term they might be able to upgrade the road and subdivide the property so with that in mind, we're just trying to coordinate in advance saying that if and when that road is upgraded the standard policy of the town is connect inside and that's what they're agreeing to.

MR. SCHLESINGER: But that can have a significant affect upon what the plans are of the upgrade.

MR. EDSALL: Not really cause if they have to bring that road up to private road standards the way John has laid out the lot it's going to front on the private road and they just take the driveway and sweep it in so it's been thought out and that's why we're working with

them as it may be.

MR. ARGENIO: Not a big deal.

MR. EDSALL: It's a fair settlement, they have agreed to move it when it's appropriate.

MR. SCHLESINGER: Okay.

MR. CELLA: Could be never or it could be--

MR. EDSALL: Could be next year and it could be 100 years from now if they never develop it.

MR. ARGENIO: Babcock's been paying taxes in this town a lot more years than you.

MR. VAN LEEUWEN: And me.

MR. SCHLESINGER: We'll never catch him, right?

MR. ARGENIO: Anybody see any anomalies with this?

MR. VAN LEEUWEN: I make a motion that we approve.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer final approval to the Babcock minor subdivision. Roll call.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

CONSTRUCTION_PROPERTIES_(ARGENIO)_(09-20)

MR. ARGENIO: Construction Properties, we're going to talk for a few moments, Mark, I guess Mr. Shaw called you and told you he wasn't going to be here and you're going to do a little thing on the last one?

MR. EDSALL: Yeah, I mean--

MR. ARGENIO: I want to talk about the local law first.

MR. EDSALL: Yes, let's get those out of the way.

WINDMILL_LAW_&_WORK_FORCE_HOUSING_LAW

MR. ARGENIO: We have a couple members late. For their benefit, I'm going to drop back. As everybody's aware, we have been talking about are the Work Force Housing issue in this town, we have been talking about windmills, I think everybody was privy to that presentation by Mr. Chalef?

MR. VAN LEEUWEN: I wasn't.

MR. ARGENIO: You weren't here for that?

MR. VAN LEEUWEN: No.

MR. ARGENIO: Okay, he wants to put a windmill.

MR. VAN LEEUWEN: That part I was here for one meeting.

MR. ARGENIO: Mr. Chalef has no active application in front of this board, Henry, but because he wants to do the windmill, we don't have any legislation, any laws in the town governing windmills or work force housing as it were. We have talked about this quite a few times. Dominic, would you give for the benefit of the members just the quick 15 minute update on where we're at and what we're doing here tonight to finalize these two things with the Town Board?

MR. CORDISCO: Sure, as you mentioned, the town has been working on two local laws, we'll take the windmill one first. Public hearing has actually been scheduled for the next regular Town Board meeting which I believe is next week and so they have their public hearing on that. The Town Board as part of their process has, we've gone over this before, they have referred this local law to you for your recommendation and that's what we're here to talk about tonight. We drafted the Windmill Law and we didn't want to recreate the wheel when we did so we what we took was the town's cell

tower law and used that as a basis and added in very specific windmill related items in regards to that. Some of the notable items in this draft law is that the windmills would only be allowed in certain zones of the town, certain zones that are less dense so that you don't have heavy, intensive residential or business uses with windmills nearby. So there are certain zones that are specified and then on top of that there's a minimum lot size requirement of 3 acres so in order to qualify you have to have at least 3 acres and then even on top of that there are minimum setback requirements of 1 1/2 times the height of the tower so that in case in a high wind event, not that these things are designed to do this or anticipated to do it but for whatever reason if in the future it was to get blown over.

MR. ARGENIO: Doesn't fall on somebody else's garage.

MR. CORDISCO: That's exactly right so you have some additional safety buffer.

MR. ARGENIO: If I may, it's also a special use permit too.

MR. CORDISCO: I was just about to mention that it's a special use permit and so the board has a great deal of discretion in deciding whether or not it's appropriate for a given area. You will also be able to not only evaluate visual impacts but also noise impacts as well because there can be noise impacts that are significant, especially if you have nearby residences because these things they go whenever the wind blows.

MR. ARGENIO: So if somebody comes in and wants to put a windmill up on the property and the neighbors come in here and lock step and start stomping their feet we can act accordingly.

MR. GALLAGHER: How do we measure the noise?

MR. ARGENIO: Dan, I think what we're going to do is we're going to have to, some people are going to have to get approval for these things but there are noise thresholds that Dominic has in the law that I got from other municipalities, other communities that have this law so we have some guidelines. Henry, go ahead.

MR. VAN LEEUWEN: You know, I have a cousin in Europe in Holland that's got one on his property and the noise is very, very minimal, very minimal, you hardly hear it and you have a lot of wind over there, okay, lot more than we have here, okay, and it's, you hardly hear it and I sleep in a nice house so--

MR. CORDISCO: It will be dependent on the design part of the application process to give very specific design specifications so that we have an understanding from the manufacturer as to what the expectations are and as I said, it was broadly worded so the board has discretion to evaluate. We didn't put a specific decibel limit in the law because we wanted to be flexible, it's going to depend on how close the neighbors are.

MR. ARGENIO: That contradicts me, I thought we had guidance from Town of Kent, some town upstate that had a decibel level in there, I thought that that was in there.

MR. CORDISCO: There are other examples of local laws that do have specific decibel limits in it but my recommendation and the way that the draft is currently is that there are no specific decibel limits in it.

MR. ARGENIO: I stand corrected then.

MR. CORDISCO: Just to, in order to give that flexibility.

MR. ARGENIO: Okay.

MR. EDSALL: Similar example that you may find that a certain decibel level is acceptable because this particular site is near a highway where the background noise is high versus being four miles from the nearest highway, nice, peaceful quiet area, residential and you say whoa, wait a minute. So those kind of things gives you flexibility to factor it into your evaluation.

MR. CORDISCO: The way it reads right now is this is Section Two on page 6, residential and commercial wind energy conversion systems shall be located with relation to property lines so that there shall be no particular change to the total level of noise as measured at the boundaries of all the closest parcels.

MR. ARGENIO: Okay, anything else on windmills?

MR. CORDISCO: The only other thing it has been referred to the County Planning Department and there have been so far no comments back from the county in regards to this. And it's passed the 30 days, the Town Board is free to act. At this point, they're looking for recommendation or comments from this board, what we have done in the past is the board subject to your discussion has authorized me to prepare a report and send that on to the Town Board.

MR. ARGENIO: Go on to speak of work force housing.

MR. CORDISCO: Work force housing is another draft law that's also on for public hearing for next week's Town Board meeting. Work force housing is a, flows out of the comprehensive plan, comprehensive plan has now been adopted by the town, this was one of the primary recommendations in the comprehensive plan is to provide suitable work force housing opportunities within the town. This one, once again, we didn't recreate the wheel on this, we actually took what the town had spent

a good deal of time and effort, put a lot of thought into was the senior housing regulations. We had recently amended those so they worked better, we used that as a template to do work force housing. Some of the site specific issues in regards to work force housing as written in the law is that the sites have to be a minimum of 5 acres, the density is a maximum of 2, of 10 units per acre and there are certain specific requirements in regards to work force housing to make sure that it's suitable, like senior housing, it will be tied to an overlay district and there's a copy of that map is attached to the local law. And likewise it will be a special use permit and just like the senior housing it will be a special use permit that's granted by the Town Board, not the planning board. So the Town Board will have its input and say as to whether or not locations are appropriate for work force housing. One other notable item in this local law is that it also makes a change to the town's Planned Unit Development section, the existing Planned Unit Developments there's a provision in the existing Town Law that requires a certain mix of unit type and ownership structure in Planned Unit Developments and we thought that it would be best to eliminate that and leave it up to the discretion of the planning board to determine the appropriate unit mix because that way you have more flexibility in approving certain designs.

MR. ARGENIO: Does anybody have any questions about the, I think we covered the windmills pretty darn thoroughly over the past six months or so but if anybody has any questions, please chime in. But about the work force housing, anybody, I mean, I participated in a lot of meetings in the Supervisor's office on this so I'm certainly pretty aware. Any questions on this?

MR. VAN LEEUWEN: No, none.

MR. CORDISCO: I can add on the work force housing, first of all, two things the County Planning Department

has done a county wide study finding that there's a severe deficiency in work force housing.

MR. ARGENIO: It's a big deal.

MR. CORDISCO: Then they provided specific comments on this particular draft and the work force housing overlay district, they recommended actually that the town increase the size significantly of the district and my understanding is that the Town Board is willing to consider some increase but not as far as the county is recommending so that's something that's before the Town Board at this time.

MR. ARGENIO: Okay, anybody have any questions? If anybody sees fit, I'll accept a motion that we make a positive recommendation to the Town Board relative to the windmills.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. CORDISCO: If you would authorize me to send that letter to the Town Board.

MR. ARGENIO: Authorize Dominic to craft a letting indicating such to the Town Board. Motion has been made and seconded. Roll call.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: The second thing is I'll accept a motion if somebody sees fits that we perform the same actions,

give Dominic the same direction as relates to the Work Force Housing Law in its current form.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: No further discussion, roll call.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: That said, I guess go ahead.

CUMBERLAND_FARMS_-_DISCUSSION

MR. EDSALL: One other item before you vacate the chairmanship position temporarily.

MR. ARGENIO: Thrown, as it were.

MR. EDSALL: I received communication from Cumberland Farms on Route 94, remember the site plan you all reviewed and approved?

MR. ARGENIO: That's Caesars Lane and 94?

MR. EDSALL: Yes, came out great, they were very cooperative.

MR. ARGENIO: Joe Minuta had a lot of input about the propane gas.

MR. EDSALL: I was contacted by their attorney that because of market conditions they want to change I guess one of the pump or pump groups or staggered to diesel so they want to put in an 8,000 gallon diesel tank. You won't notice it on the site plan. I think it's really a fire inspector and building inspector issue. If acceptable to the board, you can authorize me to communicate that to their attorney and to Cumberland Farms and tell them to deal with the appropriate departments in the town.

MR. ARGENIO: Let me ask a stupid question, please don't somebody throw something or shoot me for asking. This tank is going to be underground?

MR. EDSALL: Yes.

MR. SCHLESINGER: How many pumps?

MR. EDSALL: I don't know how many pumps but I will communicate if they're converting but they can't add,

no site plan change.

MR. SCHLESINGER: Converting but they can't add.

MR. ARGENIO: That's the deal.

MR. EDSALL: They're adding a tank and they're going to convert a number of dispensers to diesel.

MR. ARGENIO: They're going to put a new tank underground and they're adding no new dispensers, they'll convert one or two or three or whatever their needs are.

MR. VAN LEEUWEN: Okay.

MR. ARGENIO: Fair enough. Do you need something else from us?

MR. EDSALL: No, I'll work with Jen and the fire inspectors and lateral it to them.

CONSTRUCTION_PROPERTIES_(ARGENIO)_(09-20)_-_CONTINUED

MR. ARGENIO: Last thing is, the last item on tonight's agenda Construction Properties. Neil Schlesinger is going to handle this as he did last time. I did speak to Henry about this, I guess Greg called Mark and he got hung up or something.

MR. EDSALL: He had a conflict and candidly this was one of those projects where you were--

MR. ARGENIO: As such, I'm a partner in Construction Properties, as I did last time, Elvis has left the building.

(Whereupon, Mr. Argenio left the room.)

MR. SCHLESINGER: The next applicant is Construction Properties, Argenio site plan and the applicant proposes material recycling facility, the existing material processing plant and the plan if you all remember, Henry, you weren't here, we discussed this at detail at the last planning board meeting and I believe that the only thing that, we weren't able to conclude anything because it had to go to the Orange County Department of Planning. Is that right?

MR. EDSALL: Yes. Just to reflect or make the record clear as to how you acted at the previous meeting, you determined that since it was the same special use permit and it was just a continuation actually with a decrease in the amount of work occurring at the site, that there was no need for a new special permit public hearing, you waived the site plan public hearing but you could not act under SEQRA nor act for approval for the modification to the site plan because you need to hear from the county and the county, 30 days hadn't expired and they hadn't gotten back to us. At this point, they did respond, they didn't see any issue and they have returned the local determination with a

referral date June 17. So my suggestion at this point and candidly we tell applicants don't waste gas to drive here if you're only waiting to hear from the county so you're, the appropriate action would be first to adopt a negative dec and authorize the attorney to prepare one for signature and the next step would be a site plan amendment approval.

MR. VAN LEEUWEN: So moved, negative dec.

MR. EDSALL: Negative dec first.

MR. SCHLESINGER: I have a copy of the letter from the Orange County Department of Planning dated June 17 and proposed site plan amendment appears to be consistent with the county comprehensive plan local laws and there is no further comments from the county perspective so does anybody else have anything to discuss? I think we discussed this in detail at the last meeting. All right so then if anybody wants to make a motion that we declare negative dec.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHLESINGER	AYE

MR. SCHLESINGER: Do we have to authorize Dominic to--

MR. CORDISCO: I would prepare it as a course of business. The next resolution that you need to take is motion to authorize the preparation of a resolution granting amended approval.

MR. SCHLESINGER: Somebody wants to make that motion.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHLESINGER	AYE

MR. SCHLESINGER: Now, Mark, just help me out, this is not a formal approval.

MR. EDSALL: It is, you have now effectively adopted the two resolutions, Dominic will prepare the legal resolutions for signature which in this particular case you'll sign.

MR. CORDISCO: For your signature, that's correct.

MR. EDSALL: Once they're filed with the Town Clerk, it's a done deal.

MR. SCHLESINGER: So we, so the only thing we have to do now is just--

MR. EDSALL: Motion to adjourn.

MR. SCHLESINGER: Motion to adjourn. Anything else? Motion to adjourn?

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

ROLL CALL

June 24, 2009

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MR. VAN LEEUWEN	AYE
MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHLESINGER	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

